

# Invenergy

March 7, 2016

Jerald Schwager, Chairman  
Antelope County Board of Supervisors  
501 Main Street  
PO Box 26  
Neligh, NE 68756

Dear Chairman Schwager:

At the March 1, 2016 Board of Supervisors meeting, the Board passed a resolution asking Invenergy to confirm that the County would not be liable for any damages that may arise from the Upstream Wind Energy Project.

We confirm that it is our understanding of the law that as a private developer/owner of a private business enterprise, on private property and/or public right-of-way, Antelope County would have no legal liability to any third party that may suffer either personal or property damage as a result of Upstream's ownership and/or operation of its proposed Wind Energy Conversion System.

To the extent necessary, Upstream would be willing to agree to a condition in the conditional use permit substantially as follows:

*Upstream Energy will maintain property damage and liability insurance for any damages to persons or property that may result from Upstream's ownership and/or operation of its proposed Wind Energy Conversion System.*

Please let us know if you have any questions. Thank you for your consideration.

Very truly yours,

  
Emily Kobylarczyk  
Upstream Wind Energy LLC

received  
4-12-16

## Antelope County Zoning

---

**From:** Kobylarczyk, Emily <EKobylarczyk@invenergyllc.com>  
**Sent:** Wednesday, April 06, 2016 4:46 PM  
**To:** Antelope County Zoning  
**Subject:** RE: Questions  
**Attachments:** GEA18628H Wind\_1.7-100\_Brochure\_R1.pdf; GEA31820A Wind\_2MWplatform\_Brochure\_R1.pdf; GE Turbine Height Summary.pdf

Hi Liz –Thank you for meeting with me yesterday, I appreciate your continued diligence in reviewing our application. I wanted to follow-up to your email and our meeting. My responses are in red brackets below based on what we discussed. Please let me know if you have additional questions.

1. Can you identify, in writing, the towers that are to be withdrawn from the application prior to approval. [We have no intent to withdraw any of the proposed towers/wind turbines at this time (specifically the 8 Towers/Wind Turbines in question). The clear intention of condition no. 1 to the planning commission's permit conditions was that "to the extent that any of the Tower/Wind Turbines does not comply with requirements set forth by the FAA or the Nebraska Airport Zoning Act, such Tower/Wind Turbine will not be constructed and will not be considered part of this proposed Wind Energy Conversion System." Thus, whether any of the turbines are constructed will be on a case-by-case (turbine-by-turbine) determination from the FAA and/or the Neligh Airport using state Airport Zoning Act requirements. To the extent we discussed a written statement to this effect, I will provide a hard copy to you prior to Tuesday, April 12.]
2. Can you please supply manufacturer's specifications as to the size, design, color and finish of the proposed towers. [Final determinations have not been made but please refer to the GE spec sheets and tower summary sheet I provided. I have made two changes that are shown in red to account for a conversion error from M to Ft, attached here for your reference. This information is also stated in section 3 number 4 of our permit application, pages 5 of 13 as I showed you yesterday.]
3. Have you submitted a Roads Agreement? I want to submit the Roads Agreement and Decommissioning Plan to the County Attorney prior to the hearing by the County Board. [As we discussed, we have yet to negotiate a road use agreement with the County Board. Consistent with the regulations, a road use agreement will be negotiated prior to project construction. We will provide you with a form road agreement based on what was previously provided for other projects in the County no later than Tuesday, April 12. Per your request, it will be clearly labeled as a "draft document."]
4. I found a few differences in the unrecorded agreements and Exhibit B Project Landowner Team. Please submit an updated Exhibit B and any applicable changes to the maps. [We will provide an updated Exhibit B by April 12 of next week, which will include all current parcels and recorded memoranda. I will be sure to include a note at the top that indicates it is an updated version.]
5. Will there be a permanent met tower associated with the project? It is not shown on the Layout map. [Based on our discussion, we have yet to finalize a permanent met tower for this project. However, we will work to provide an updated map that shows a proposed location, and should this location change based on our final layout we will of course provide updated coordinates prior to construction.]
6. There is a new residence in SE4 35-25-5 in Elm Twp. not shown on the setback map according to the Assessor's Property card. Please add it and show the applicable setback. [We will have an updated map(s) with applicable setbacks, and which will include the new residence, by April 12 of next week.]



7. The microwave study submitted doesn't show the location of the towers. It looks somewhat different than the lines shown on the setback summary map. You are to provide evidence that there will be no interference with any commercial and/or public safety communication towers within two miles. (The conclusion of the submitted microwave study only shows where the microwave paths are.) [We have contacted Comsearch and we expect to have this updated information from the original report for you by Tuesday, April 12.]

Do you have a proposal for the location and design of the signage? I would also like to see signage at the Right-of-Way with the Tower #, address, owner, and emergency contact information. [Per our discussion we can provide the signage at the access roads and we will provide an example.]

Thank you again for discussing the above with me yesterday. Please do not hesitate to contact me should you still have any more questions. I plan to deliver the above materials to you by Tuesday April 12<sup>th</sup> next week.

Have a good weekend,

Emily Kobylarczyk | Business Development Associate  
Invenergy LLC | 2580 West Main Street Littleton, CO 80127  
[EKobylarczyk@invenergyllc.com](mailto:EKobylarczyk@invenergyllc.com) | 303-800-9342 |

Invenergy

*This electronic message and all contents contain information which may be privileged, confidential or otherwise protected from disclosure. The information is intended to be for the addressee(s) only. If you are not an addressee, any disclosure, copy, distribution or use of the contents of this message is prohibited. If you have received this electronic message in error, please notify the sender by reply e-mail and destroy the original message and all copies.*

**From:** Antelope County Zoning [mailto:antcozone@frontiernet.net]  
**Sent:** Sunday, April 03, 2016 8:10 PM  
**To:** Kobylarczyk, Emily <EKobylarczyk@invenergyllc.com>  
**Subject:** Questions

Emily,

I have been working on my report again and have more questions:

1. Can you identify, in writing, the towers that are to be withdrawn from the application prior to approval.
2. Can you please supply manufacturer's specifications as to the size, design, color and finish of the proposed towers.
3. Have you submitted a Roads Agreement? I want to submit the Roads Agreement and Decommissioning Plan to the County Attorney prior to the hearing by the County Board.
4. I found a few differences in the unrecorded agreements and Exhibit B Project Landowner Team. Please submit an updated Exhibit B and any applicable changes to the maps.
5. Will there be a permanent met tower associated with the project? It is not shown on the Layout map.
6. There is a new residence in SE4 35-25-5 in Elm Twp. not shown on the setback map according to the Assessor's Property card. Please add it and show the applicable setback.

7. The microwave study submitted doesn't show the location of the towers. It looks somewhat different than the lines shown on the setback summary map. You are to provide evidence that there will be no interference with any commercial and/or public safety communication towers within two miles. (The conclusion of the submitted microwave study only shows where the microwave paths are.)

I haven't completed my report but those are the questions for now.

Liz Doerr  
Antelope County Interim Zoning Administrator



Virus-free. [www.avast.com](http://www.avast.com)

**NOTICE OF PUBLIC MEETING AND HEARING  
ANTELOPE COUNTY PLANNING COMMISSION**

The Antelope County Board of Supervisors will conduct a public hearing **Tuesday, May 24<sup>th</sup>, 2016** at the Antelope County Courthouse beginning at [REDACTED]. A public hearing will be held to consider a conditional use permit application for a Commercial Wind Energy Conversion System (WECS) as that term is defined in Article 15 of the County's Zoning Regulations (the "Application"). The Application has been submitted by Upstream Wind Energy, LLC (the "Applicant"). The proposed WECS is comprised of wind generation turbines, rotor blades, towers and related electrical equipment and facilities. A copy of this notice is being mailed by first class mail to all property owners of record within the project area and all adjacent property owners of record. A copy of this notice has also been mailed by first class mail to the Chairpersons of the planning commissions for the cities of: Clearwater, Neligh, Oakdale, and Tilden, and to the cities' respective City Clerks; to the Chairperson of the Pierce County, Nebraska planning commission, and to its County Clerk; and to the Chairperson of the Madison County, Nebraska planning commission, and to its County Clerk.

The Application may be examined in the office of the Antelope County Clerk or the Antelope County Zoning Office during normal business hours prior to the public hearing. At the hearing, any person may offer oral comments or may appear through an agent or attorney and/or may file written comments with the Board of Supervisors. All written comments must be received by the County Clerk prior to close of business Monday May 23<sup>rd</sup>, 2016 in order for the comments to be accepted into the official public record for the Application. Written comments are to be mailed to Antelope County Clerk 501 M Street, Neligh, NE 68756.

**received**  
4-26-16